



DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities for H-2A Foreign Labor Certification Program;
Comment Request

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension to the information collection request (ICR) titled, "H-2A Foreign Labor Certification Program," and the related information collection and retention requirements (Office of Management and Budget (OMB) Control Number 1205-0466), which covers Forms ETA-9142A, *Application for H-2A Temporary Employment Certification*; ETA-9142A, Appendix A, *Assurances and Obligations*; ETA-9142A, *Final Determination: H-2A Temporary Labor Certification Approval*; ETA-790/790A, *H-2A Agricultural Clearance Order*; ETA-790/790A, Addendum A, *Additional Crops or Agricultural Activities*; ETA-790/790A, Addendum B, *Additional Worksite and/or Housing Information*; and related form instructions. This action seeks to extend without change all forms in the information collection. This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATE: Consideration will be given to all written comments received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained for free by contacting Brian Pasternak, Administrator,

Office of Foreign Labor Certification, by telephone at 202-693-8200 (this is not a toll-free number), TTY 1-877-889-5627 (this is not a toll-free number), or by email at ETA.OFLC.Forms@dol.gov.

Instructions: Submit written comments about, or requests for a copy of, this ICR by email: ETA.OFLC.Forms@dol.gov. To ensure proper consideration, include the OMB control number 1205-0466.

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, by telephone at (202) 693-8200 (this is not a toll-free number) or by email ETA.OFLC.Forms@dol.gov.

AUTHORITY: 44 U.S.C. 3506(c)(2)(A).

SUPPLEMENTARY INFORMATION:

DOL, in its continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to OMB for final approval. This program ensures the public provides all necessary data in the desired format, the reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed. The information collection is required by secs. 101(a)(15)(H)(ii)(a), 214(c), and 218 of the Immigration and Nationality Act (INA) (8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188), as well as 8 CFR 214.2(h)(5) and 20 CFR part 655, subpart B. The H-2A visa program enables employers to bring nonimmigrant foreign workers to the United States to perform agricultural work of a seasonal or temporary nature as defined in 8 U.S.C. 1101(a)(15)(H)(ii)(a). Before an employer can file a petition with the Department of Homeland Security (DHS) to employ temporary workers as H-2A nonimmigrants, the INA and DHS regulations require an employer to first obtain a determination from DOL

certifying whether a qualified U.S. worker is available to fill the job opportunity described in the employer's petition for a temporary agricultural worker and whether a foreign worker's employment in the job opportunity will adversely affect the wages or working conditions of similarly employed U.S. workers. 8 U.S.C. 1188, INA sec. 218; 8 CFR 214.2(h)(5)(i), (ii), and (iv)(B). DOL's regulations establish the processes by which an employer must obtain a temporary labor certification from DOL and the rights and obligations of workers and employers. 20 CFR part 655, subpart B.

This ICR, OMB Control No. 1205-0466, includes the collection of information related to the temporary labor certification process and agricultural clearance order process in the H-2A program. The information contained in the application Form ETA-9142A, *H-2A Application for Temporary Employment Certification*, and job order Form ETA-790/790A, *H-2A Agricultural Clearance Order*, together serve as the basis for the Secretary of Labor's determination that qualified U.S. workers are not available to perform the services or labor needed by the employer and that the wages and working conditions of similarly employed U.S. workers will not be adversely affected by the employment of H-2A workers. Employers use *Appendix A* of Form ETA-9142A to attest that they will comply with all of the terms, conditions, and obligations of the H-2A program. ETA is seeking a three-year extension, without change, for each of these forms.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the

ADDRESSES section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205-0466.

Submitted comments will also be a matter of public record for this ICR and posted on the Internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses).

Agency: DOL-ETA.

Action: Extension.

Title of Collection: H-2A Temporary Agricultural Employment Certification Program.

OMB Control Number: 1205-0466.

Affected Public: Individuals or Households, Private Sector – businesses or other for-

profits, Government, State, Local and Tribal Governments.

Form(s): ETA-9142A, *H-2A Application for Temporary Employment Certification*; ETA-9142A – *Appendix A*; ETA-9142A – *Final Determination: H-2A Temporary Labor Certification Approval*; ETA-790/790A, *H-2A Agricultural Clearance Order*; ETA-790/790A – *Addendum A*; ETA-790/790A – *Addendum B*.

Total Estimated Number of Annual Respondents: 14,586.

Frequency: On Occasion.

Total Estimated Number of Annual Responses: 458,114.

Average Time per Response:

- Forms ETA-9142A, *Appendix A* – .50 hours per response.
- Forms ETA-790/790A/790B – .67 hours per response.
- Administrative Appeals – 0.33 hours per response.

Total Estimated Annual Time Burden: 88,268.23 hours.

Total Estimated Annual Other Costs Burden: \$0.

Angela Hanks,

Acting Assistant Secretary for Employment and Training, Labor.
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